

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

JEREMY HAWKS, DAWN HAWKS,)	
JENNIFER SIKO, and RODNEY)	
WEST, on their own behalf and on)	Case Number: 09CV2225
behalf of all others similarly situated,)	
)	Judge Der-Yeghiayan
Plaintiffs,)	Magistrate Judge Keys
)	
v.)	
)	
AMERICAN ESCROW, L.L.C.,)	
DEREK LURIE, and STEVEN)	
LURIE ,)	
)	
Defendants.)	

MOTION FOR ENTRY OF DEFAULT

Plaintiffs, by and through their attorneys, respectfully move this Court for an entry of default against Defendant American Escrow, L.L.C. In support of their motion, Plaintiffs state:

1. Plaintiffs filed their Class Action Complaint against American Escrow, L.L.C. ("American Escrow") on April 10, 2009. Plaintiffs filed the Complaint on their own behalf and on behalf of all others similarly situated.

2. American Escrow provides escrow services. American Escrow promised to collect monthly payments from Plaintiffs, holds those payments, then pay Plaintiffs' property tax and insurance bills when those came due. Complaint ¶

2.

3. Beginning some time in 2008, American Escrow failed to pay Plaintiffs' property tax and insurance bills. Id. ¶ 4. American Escrow ceased operations in or around March 2009. Id. ¶ 6. American Escrow did not refund to Plaintiffs any unused escrow funds when American Escrow ceased doing business. Id. ¶ 7.

4. Plaintiffs seek to recover damages for harmed caused by American Escrow, including the non-payment of property taxes and/or insurance and the failure to refund escrow funds. Id. ¶¶ 32, 39.

5. On April 14, 2009, Plaintiffs served process on American Escrow by personally serving the Complaint and Summons on American Escrow's registered agent. See Return of Service (attached hereto as Exhibit 1); American Escrow, L.L.C. File Detail Report (attached hereto as Exhibit 2).

6. American Escrow was due to answer or otherwise respond to the Complaint by May 4, 2009.

7. American Escrow failed to respond to the Complaint by May 4, 2009. In fact, as of the date of this Motion, American Escrow has not responded to the Complaint, appeared in this case, or contacted Plaintiffs' counsel.

8. Because American Escrow has "failed to plead or otherwise defend" in this case, this Court should enter default against American Escrow pursuant to Federal Rule of Civil Procedure 55(a).

9. On May 5, 2009, Plaintiffs notified American Escrow by letter to American Escrow's registered agent that Plaintiffs intended to move for entry of default against American Escrow. See May 5, 2009 Corr. From D. Twetten to

American Escrow, L.L.C. c/o Jason Wolin (attached hereto as Exhibit 3). Plaintiffs attempted to hand deliver the same letter to American Escrow at its principal place of business, but nobody would accept delivery of the letter. See Declaration of Jeff Perkins ¶ 4 (attached hereto as Exhibit 4).¹

10. Plaintiffs will serve this Motion on American Escrow by sending copies of the Motion via United States Mail to American Escrow's office and to the office of American Escrow's registered agent.

WHEREFORE, Plaintiffs respectfully request that this Court enter default against American Escrow, L.L.C.

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Respectfully submitted,

s/Daniel Twetten
One of Plaintiffs' Attorneys

¹ This is well beyond whatever notice must be given to a defendant who fails to appear. Cf. In re Uranium Antitrust Lit., 473 F. Supp. 382, 391 (N.D. Ill. 1979).

Certificate of Service

I, Daniel Twetten, certify that the foregoing pleading was served on the following by United States Mail with proper postage affixed on May 8, 2009:

American Escrow, L.L.C.
404 North May Street
Chicago, Illinois 60622

American Escrow, L.L.C.
c/o Jason L. Wolin (registered agent)
55 West Monroe Street, Suite 3600
Chicago, Illinois 60603

Derek Lurie
481 Woodland Road
Highland Park, Illinois 60035

Steven Lurie
481 Woodland Road
Highland Park, Illinois 60035

s/Daniel Twetten